REMARKS

Claims 1-69 are pending in the present application. Claims 1, 2, 5, 7, 13, 21, 23, 25-29, 32, 34, 40, 47, 49, 50, 53, 55, 61, and 68 are amended. Reconsideration of the claims is respectfully requested.

1.   35 U.S.C. § 102, Anticipation

The Office Action rejects claims 1-11, 21-24, 28-38, 47-59 and 68-69 under 35 U.S.C. § 102 as being anticipated by *Rosenberg et al.* (U.S. Patent No. 6,628,934). This rejection is respectfully traversed.

Rosenberg teaches systems and methods for automatically activating wireless services. Software and hardware infrastructure enables wireless service providers to automatically register a wireless device on a wireless network and a wireless user to automatically activate wireless services on the wireless device. The wireless services may be part of a wireless service plan provided by the wireless service provider on a per fee basis. See *Rosenberg*, Abstract. More particularly, *Rosenberg* states:

> These and other objects of the present invention are accomplished by providing systems and methods for automatically provisioning wireless services on a wireless device. The wireless services may include cellular phone service, e-mail, Internet access, games, financial trading, and location-aware services, among others. Location-aware services are services provided to a wireless device user according to the user's geographic location. Such services may include weather, restaurant reservation services, travel services, mapping services, among others. The wireless services are provided according to a fee-based wireless service plan offered by the wireless service provider and selected by the user.

Rosenberg, col. 3, lines 46-59.

> Next, at step 61, wireless device user 47 provides information into an on-line form in activation web site 48 regarding the geographic location where wireless device user 47 plans to use the wireless service plan. The location information is provided for verifying whether the wireless service plan is available on that geographic location, and if so, for selecting the IP address and side preference

associated with the wireless carrier operating the wireless
network on that location.

Rosenberg, col. 11, lines 9-17.

> Referring now to FIG. 8, a screenshot of a web page
> on the activation web site for providing the geographic
> location where the wireless device user plans to use the
> wireless services is described. Web page 78 contains on-
> line form 79 to allow wireless device user 47 to enter a zip
> code corresponding to the geographic location where
> wireless device user 47 plans to use the wireless services.
> By clicking on button 80, wireless device user 47 submits
> the location information to activation web server 51, which
> then verifies that the wireless service plan selected is
> available on that location. If the wireless service plan is not
> available on that location, a web page is displayed to
> wireless device user 47 to inform user 47 that the wireless
> service plan cannot be used on that location. A map
> showing the regions where the services are available may
> also be displayed to wireless device user 47.

Rosenberg, col. 11, line 61, to col. 12, line 9. Thus, *Rosenberg* teaches that the location
of the user may be used to determine whether a service is available in the geographic area
in which the user is located. *Rosenberg* also teaches that a location of the user may be
used for location-based services that may change based upon the location of the user. For
example, a user may make restaurant reservations at a restaurant that is in close proximity
to the user or a user may receive weather information that is specific to the user's
location.

In contradistinction, the present invention determines a rate for charging a client
for services based on the location of the client. In other words, a user in one geographic
location may pay more for a service than a user in a different geographic location. For
example, claim 1 recites:

> 1.   A method in a data processing system for managing subscription
> computing services, the method comprising:
>   providing subscription computing services to a set of clients in a
> network data processing system; and
>   **determining a rate for charging** a mobile client within the set of
> clients for the subscription computing service **based on a location of the
> mobile client.** [emphasis added]

Rosenberg only teaches determining whether a service is available in a particular geographic location. *Rosenberg* does not teach determining a rate for charging a user for services based on a location of the user.

The applied reference does not teach or suggest each and every claim limitation; therefore, *Rosenberg* does not anticipate claim 1. Independent claims 5, 21, 23, 28, 32, 47, 49, 53, and 68 recite subject matter addressed above with respect to claim 1 and are allowable for the same reasons. Since claims 2-4, 6-20, 22, 24, 29-31, 33-46, 48, 50-52, 54-67, and 69 depend from claims 1, 5, 21, 23, 28, 32, 47, 49, 53, and 68, the same distinctions between *Rosenberg* and the invention recited in claims 1, 5, 21, 23, 28, 32, 47, 49, 53, and 68 apply for these claims. Additionally, claims 2-4, 6-20, 22, 24, 29-31, 33-46, 48, 50-52, 54-67, and 69 recite other additional combinations of features not suggested by the reference.

More particularly, with reference to claims 3, 11, 30, 38, 51, and 59, the Office Action alleges that *Rosenberg* teaches an on-site support system and software installation in **Figure 4**. Applicants respectfully disagree. **Figure 4** is a schematic diagram of a data processing system. It is unclear where the alleged on-site support system or software installation service is found in this diagram. At best, **Figure 4** illustrates that an activation code may be sent to activation module 57 to activate a service on wireless device 49. However, *Rosenberg* does not teach or suggest a subscription service that is an on-site support system or software installation service, as recited in claims 3, 11, 30, 38, 51, and 59.

Claims 7, 34, and 55 are amended to recite determining a second rate for a second client, where the second rate is different from a first rate for a first client. In other words, the rate charged for a service is dependent upon the location of the client. *Rosenberg* does not teach determining a rate for a service where the rate depends on the location of the wireless device.

Therefore, Applicants respectfully request withdrawal of the rejection of claims 1-11, 21-24, 28-38, 47-59 and 68-69 under 35 U.S.C. § 102.

Furthermore, *Rosenberg* does not teach, suggest, or give any incentive to make the needed changes to reach the presently claimed invention. Absent the Office Action pointing out some teaching or incentive to implement *Rosenberg* to determine a charge

for a service based on the location of a client, one of ordinary skill in the art would not be led to modify *Rosenberg* to reach the present invention when the reference is examined as a whole. Absent some teaching, suggestion, or incentive to modify *Rosenberg* in this manner, the presently claimed invention can be reached only through an improper use of hindsight using Applicants' disclosure as a template to make the necessary changes to reach the claimed invention.

II.   <u>35 U.S.C. § 103, Obviousness</u>

The Office Action rejects claims 12, 39 and 60 under 35 U.S.C. § 103 as being unpatentable over *Rosenberg* in view of *Linkola et al.* (U.S. Patent No. 6,708,033). This rejection is respectfully traversed.

Claims 12, 39, and 60 depend from claims 5, 32, and 53 and are allowable by virtue of their dependency. *Linkola* does not make up for the deficiencies of *Rosenberg*. Therefore, the proposed combination of *Rosenberg* and *Linkola* is insufficient to render claims 12, 39, and 60 obvious. More particularly, even if one were motivated to combine *Rosenberg* and *Linkola*, the applied references, taken individually or in combination, still fail to teach or suggest determining a rate for charging a client for services based on a location of the client.

Therefore, Applicants respectfully request withdrawal of the rejection of claims 12, 39 and 60 under 35 U.S.C. § 103.

The Office Action rejects claims 13-20, 40-46 and 61-67 under 35 U.S.C. § 103 as being unpatentable over *Rosenberg* in view of *Larkins* (U.S. Patent No. 6,295,291) or *Schuster et al.* (U.S. Patent 6,650,901). This rejection is respectfully traversed.

The Office Action states:

> Regarding claims 13, 40 and 61, Rosenberg fails to teach caller identification or subscriber unit identification.
> Shuster et al. teaches a system for providing user-configured telephone service in a data network wherein local identification can be transmitted with a call in (see col. 14 lines 54-65).
> Larkins teaches a setup of new subscriber radiotelephone wherein telephone identification data can be transmitted in (see disclosure).
> Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of

Linkola or Shuster into that of Rosenberg thus making it possible to program telephone with the right services based on its request and identification.

Regarding claims 14-20, 41-46 and 62-67, the examiner takes official notice that billing based on traffic, latency, bandwidth, time of day and so forth is notoriously well for the purpose of providing incentive and billing based on actual services provided.

While *Larkins* and *Schuster* generally teach that identification data may be transmitted with a call, there is no teaching or suggestion to use caller identification data to determine location of a client that requests a service and to determine a rate for charging for the service based on the determined location. In other words, *Larkins* and *Schuster* do not make up for the deficiencies of *Rosenberg*. Therefore, the proposed combination of *Rosenberg* and *Larkins* and the proposed combination of *Rosenberg* and *Schuster* are insufficient to render claims 13, 40, and 61 obvious. More particularly, even if one were motivated to combine *Rosenberg* and *Larkins* or *Rosenberg* and *Schuster*, the applied references, taken individually or in combination, still fail to teach or suggest determining a rate for charging a client for services based on a location of the client.

Larkins and *Schuster* do not appear to be relevant to claims 14-20, 41-46, and 62-67. Applicants respectfully traverse the Official Notice that billing based on traffic, latency, bandwidth, and time of day is notoriously well known for the purposes of providing incentive and billing based on actual services provided. While service providers may guarantee that quality of service will fall within certain parameters, the rate for charging for the service is not based upon the location of the client. Furthermore, the Office Action dismisses the claimed features as allegedly well-known, but fails to address how or why these features could somehow be implemented in the system of *Rosenberg*. Applicants submit that *Rosenberg, Larkins*, and *Schuster*, taken alone or in combination, fail to teach or suggest determining a rate for charging for services based on a location of the client and, thus, fail to teach the further limitations in claims 14-20, 41-46, and 62-67.

Therefore, Applicants respectfully request withdrawal of the rejection of claims 13-20, 40-46 and 61-67 under 35 U.S.C. § 103.

The Office Action rejects claims 25-27 under 35 U.S.C. § 103 as being unpatentable over *Rosenberg*. This rejection is respectfully traversed.

The Office Action states:

> Regarding claims 25-27, Rosenberg teaches a data processing system comprising a method for receiving a request for service(s), identifying a location of the client in response to given location information and billing the client based on the location of where the client is to use the mobile phone in (see col. 1 lines 8-11, col. 7 lines 6-32, col. 8 lines 19-23). Rosenberg teaches determining whether a requested service can be provided based on the location identifier given in (see col. 12). Rosenberg fails to teach a data processing system in detail to include a bus system but the examiner takes official notice that it's well known to have a computer system including a bus, memory, processing unit and so forth for implementation or provision of telephone services. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the teaching of Rosenberg into any known computer structure for the purpose of being able to provide telephone services.

Applicants respectfully disagree. As stated above, *Rosenberg* fails to teach or suggest determining a rate for charging for services based on a location of the client, as recited in claims 25-27. Therefore, even if a person of ordinary skill in the art found it obvious to modify *Rosenberg* to include a generally well-known bus, memory, and processing unit, the modification would still not result in the presently claimed invention.

Therefore, Applicants respectfully request withdrawal of the rejection of claims 25-27 under 35 U.S.C. § 103.
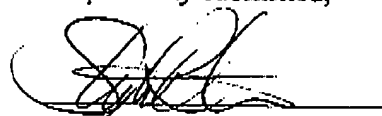
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III.   **Conclusion**

It is respectfully urged that the subject application is patentable over the prior art of record and is now in condition for allowance.

The Examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the Examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

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Respectfully submitted,

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